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Rec'd 9/26 JPD

P.O. Box 5062
Wilm., DE 19803-0062
September 17, 1985

Regional Administrator
Environmental Protection Agency
Middle Atlantic Region
Sixth and Walnut Streets
Philadelphia, Pennsylvania

RE: Harvey & Knotts Dumpsite, Glasgow, DE

Dear Sir or Madam,

As interested and affected parties, we feel compelled to take this opportunity to express our concerns and opinions about the proposed monitoring and restoration project to be implemented at the referenced dumpsite. It is our adamant and considered position that the principals of the now defunct Harvey & Knotts Trucking, Inc., especially Edgar T. Harvey, Jr. should be held personally accountable for making complete restitution of any and all monies that the federal government, and consequently we as taxpayers, incur in this regard. Our position is further predicated on the following premises:

1) the present conditions are the result of deliberate, reckless and crininous activities undertaken solely for the material advantage and self-interest of the defunct company in a spirit of unconscionable indifference and apparent contempt to probable ramifications and adverse effects upon the local residents. Thus, the profits derived from this blatantly illegal and immoral operation and the benefits thereby accruing to its principal officers should be applied and are rightly converted to reimbursement for all expenses required to bring the site into conformity with known health and safety requirements.

2) Harvey & Knotts Trucking, Inc. ceased activity as a legal corporation on or about August 1, 1977. Harvey & Harvey, Inc., an extant Delaware corporation has retained the same federal employer's identification (F.E.I.) number and may be construed as the logical, if not legal successor to the defunct corporation. Obviously, inasmuch as Harvey & Harvey, Inc. possesses the old F.E.I. number, they assume and recognize liability for all withholding tax obligations attributable to Harvey & Knotts.

3) The former officers of the perpetrator, specifically Edgar T. Harvey, Jr. and Edna J. Knotts should and deserve to be held fully accountable for the balance of expenses above and beyond the total of the liquidated revenues and assets of Harvey & Harvey, Inc.

4) The public at large has sustained an irremedial loss and potential health and safety hazards due to the site. Regardless of the anticipated success of the clean-up, the anxiety, fear and inconveniences already inflicted upon the adjacent communities cannot be assuaged or greatly alleviated.

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Regional Administrator
Environmental Protection Agency
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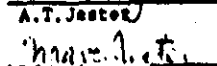
5) Prudence dictates that corporate entities must be subject to the full weight of criminal, legal and moral responsibility as private individuals for the corporation is only the aggregate persons of its officers. Since a government or state is a creature of the law which is but a rational ordinance promulgated for the sake of the common good, the protections of limited personal liability that insure to corporations and their members by virtue of their legal existence must be subordinated to the demands of equity. Indeed, the gravity of the wrongdoing here is disproportionate and incommensurable with adherence to that standard as some of these actions are tantamount to an ultra vires act. In this instance, justice can only be approximated by conjunction with an objective and comprehensive analysis and examination of the facts and motivations that underly and have occasioned this situation. Moreover, justice would be continuous with moral considerations which maintain that freedom entails an agent's accountability for his voluntary actions and that this precept be universalizable. Hence, normative imperatives must not and need not be subalternated to the provisions of positive or statutory law in this case.

6) To pursue corrective measures with federal funding in absence of seeking compensatory and, if possible, punitive recourse against Edgar T. Harvey, Jr. who exercised a major and primary role in the polluting of this site and to a lesser extent, his sister, Edna J. Kotte would constitute a gross miscarriage of justice. Neglecting this option would be an indication of preferential treatment, undue discretion and abuse of public trust. Any exclusionary enforcement or prosecution could only serve to further provoke more public discontent and a greater lack of confidence in governmental authorities.

While we were not able to attend the September 12 hearing on this matter at Glasgow High School, we did discuss the developments with some of those who were in attendance. We were particularly distressed to hear that, when someone posed a question as to the prospect of remuneration for the funds expended they received the response that the violator was defunct, leading one to suspect that no adequate consideration had been given to this issue. Given the amount of effort already devoted to the project, such a reply can only be seen as facile and inconsistent. It is our genuine hope that this is no foregone conclusion, in that the residents of Shelley Farms and vicinity have endured a burden callously foisted upon them by a man who has been an inveterate violator of the eco-system as well as a persistent troublemaker. It would be intolerable to find that such a person was practically absolved of his horrible wrongs due to a mere technicality that would render justice empty and meaningless.

Your attention and consideration will be most appreciated and we shall look forward to your reply in the near future.

Sincerely Yours,


John H. Jester

A.T. Jester


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